

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In Re:)
)
SOMERVILLE BREWING COMPANY) Chapter 11
) Case No. 19-13300-FJB
DEBTOR)
)

**OPPOSITION OF THE DEBTOR, SOMERVILLE BREWING COMPANY TO
HORACE-WARD, LLC'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

NOW COMES the debtor, Somerville Brewing Company (the “Debtor/SBC”), and responds to the Motion of Horace-Ward, LLC (the “Horace-Ward”) for Relief from the Automatic Stay concerning an unexpired lease, pursuant to 11 U.S.C. § 362(d), MLBR 13-16-1, and FRBP 4001(a) paragraph by paragraph as follows:

1. Admits.
2. Admits.
3. Admits.
4. Admits.
5. The Debtor admits that it continued to pay on its lease to Horace-Ward the monthly rent of \$7,100.00 and \$2,800.00 for utilities from October 2019 through February 2020. Further answering, the Debtor states that due to the Covid-19 crisis, it was forced to close both locations in accordance with the rules and regulations implemented by the Commonwealth and the City of Somerville, and therefore did not have the revenues for the rent and utilities.
6. The Debtor admits it is in default but has insufficient information to either admit or deny the information contained in paragraph 6.

7. The Bankruptcy Code speaks for itself. Further answering, Massachusetts law at Chapter 65 of the Acts of 2020, entitled "An Act providing for a moratorium on evictions and foreclosures during the COVID-19 Emergency" imposes a moratorium on "non-essential evictions" on small business tenants in response to the COVID-19 pandemic. Chapter 65 at Section 3 (b) prevents a landlord, in a non-essential eviction matter from filing a writ, summons or complaint for an eviction if the non-payment of rent was due to the financial impact of COVID-19. The Debtor was forced to close its operations on or about March 24, 2020 and prior to the full closure, business was dramatically reduced due to the public wariness of bars and restaurants due to warnings about the transmission of the COVID-19 virus.
8. The Debtor maintains possession and the right to use. However, further answering, the business is not operating at the premises.
9. Denied.
10. Admits. Further answering, the Debtor has scheduled, pending approval of the Application to Employ Auctioneer and a Motion to Sell at Public Auction, which shall be filed forthwith, an auction at the end of July, and intends thereafter to surrender the premises to the Landlord.
11. Admits.
12. Admits.

WHEREFORE, the Debtor prays that the Motion for Relief be denied due to lack of cause related to non-payment of the post-petition rent arising as a result of the COVID-19 virus and for such further relief as is appropriate; or in the alternative, that relief be granted, but subject to the prohibitions of the Chapter 65 of the Acts of 2020, which provides that no eviction action be

commenced until the dates established at Section 6, which means 120 days after the effective date of the Act or 45 days after the COVID-19 emergency declaration has been lifted, and as such dates may be extended by the Governor of Massachusetts as provided therein.

Respectfully submitted,
Somerville Brewing Company,
By its attorney,

Dated: June 26, 2020

/s/ Nina M. Parker
Nina M. Parker (BBO #389990)
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_____)

CERTIFICATE OF SERVICE

I, Nina M. Parker, do hereby certify that I have given either electronic notice, fax notice and/or mailed, postage prepaid, copies of the **Opposition of the Debtor, Somerville Brewing Company to Horace-Ward, LLC's Motion for Relief from the Automatic Stay** to the parties listed on the annexed service list.

/s/ Nina M. Parker
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DATED: June 26, 2020

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Via Email

Somerville Brewing Company, c/o Jeffrey Leiter, President